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APR 16 2008

OFFICE OF PETITIONS

In re Application of :
SHERMAN AND MOLLENAUER :
Application No. 10/806,840 :
Filed: 03/22/2004 :
Attorney Docket No. 212/369 :
Title: MODULAR CPR ASSIST DEVICE TO :
HOLD AT A THRESHOLD OF TIGHTNESS :

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.47(a), filed February 20, 2008, which is being treated as a petition under 37 CFR 1.183 seeking waiver of the requirement of 37 CFR 1.64 and 1.67 that the named inventor re-execute the declaration.

Once an application has received a fully executed oath or declaration and been placed on the files for examination, the provisions of 37 CFR 1.47 no longer apply. Petitions under 37 CFR 1.47 are only applicable to an original oath or declaration and do not apply to the re-execution of another oath or declaration by a signing inventor. See MPEP 603. Rather, the remedy is a petition under 37 CFR 1.183 (and fee), requesting waiver of the requirement of 37 CFR 1.64 and 1.67 that the inventor re-execute the oath or declaration. The petition under 37 CFR 1.183 requesting waiver of the re-execution of the oath or declaration will be evaluated as to whether the non-signing inventor was actually given the opportunity to re-execute the oath or declaration, or whether the non-signing inventor could not be reached.

In this instance, joint inventor, Darren R. Sherman, signed the originally filed declaration in the present application. However, in the final Office action of June 14, 2007, the Examiner stated that the declaration was defective and required a new declaration in compliance with 37 CFR 1.67(a). On November 14, 2007, applicants filed, inter alia, an extension of time for response within the second month and a declaration lacking the signature of Mr. Sherman. On November 28, 2007, the Office mailed a Notice of Allowability requiring Mr. Sherman's signature on the declaration.

Applicants assert that Mr. Sherman refuses to re-execute the declaration. Unfortunately, the declaration is unacceptable because it does not identify Mr. Sherman's residence or mailing address. The Office notes that the declaration must identify the mailing address, and the residence if an

inventor lives at a location which is different from where the inventor customarily receives mail, of each inventor.

For this reason, the petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. **Failure to timely respond will result in abandonment of the application.** The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.183."

The current fee for filing a petition under 37 CFR 1.183 is \$400.00. The Office will charge the difference of \$200.00 to the Deposit Account, as authorized.

Telephone inquiries related to this decision should be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions